

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:23-cr-104

vs.

BILLY RAY DANIEL,

District Judge Michael J. Newman

Defendant.

ORDER: (1) GRANTING DEFENDANT’S UNOPPOSED MOTION TO CONTINUE TRIAL (Doc. No. 47); (2) REFERRING DEFENDANT TO A FORENSIC PSYCHOLOGIST FOR EVALUATION TO DETERMINE HIS MENTAL COMPETENCY AT THE TIME OF THE CHARGED OFFENSES AND AT TRIAL; (3) INFORMING COUNSEL THAT THE COURT MAY REFER HIM TO A FORENSIC PSYCHOLOGIST WITH THE BUREAU OF PRISONS IF HE IS FINANCIALLY UNABLE TO OBTAIN A PSYCHOLOGIST AND PAYMENT FOR SUCH EVALUATIONS WOULD BE MADE BY THE DEPARTMENT OF JUSTICE; (4) DIRECTING DEFENSE COUNSEL TO MAKE ARRANGEMENTS FOR THE EVALUATION; AND (5) EXCLUDING THE PERIOD FROM OCTOBER 17, 2024 UNTIL THE COURT MAKES A FINDING ON DEFENDANT’S MENTAL CAPACITY FROM THE SPEEDY TRIAL ACT CALCULATION

This criminal case is before the Court on Defendant Billy Ray Daniel’s motion to continue trial in order to conduct an evaluation to determine his mental competency. Doc. No. 47. The Court interprets this as a motion to have Defendant’s mental competency evaluated, pursuant to 18 U.S.C. § 4241. The Court also construes the motion as indicating Defendant waives his rights under the Speedy Trial Act. For good cause shown and pursuant to the requirements of the Speedy Trial Act, the Court **GRANTS** the requested continuance.

Based upon representations of Defendant’s counsel, the Court finds reasonable cause to believe that Defendant may suffer from a mental disease or defect that rendered him mentally incompetent at the time of the offense and, further, that may render him mentally incompetent

to presently stand trial. Accordingly, the Court **ORDERS**, pursuant to 18 U.S.C. §§ 4241(b), 4242, and 4247(b) and (c), that Defendant be examined and evaluated by a forensic psychologist to determine his mental competency at the time of his charged offenses and as needed to understand and assist with his defense prior to and during trial.

The Court understands Defendant has secured the services of a psychologist who intends to conduct the evaluation. However, the Court **INFORMS** Defendant that if he is financially unable to obtain a psychologist, the Court will refer him to a forensic psychologist with the Bureau of Prisons. Such evaluation shall be paid for by the Department of Justice. *See* 18 U.S.C. § 3006A(e)(1).

The Court **ORDERS** defense counsel to make arrangements directly with the psychologist for the evaluation and to assist in assuring Defendant cooperates with the examination. The Clerk of Court shall promptly transmit to the psychologist all bond reports, if any, and a complete copy of the pleadings in this case not filed under seal. Defense counsel may provide further materials to the psychologist for his or her review, and copies of any such materials shall be provided to the Government. All examination reports shall promptly be submitted to the Court.

Insofar as Defendant's speedy trial rights may be implicated, and to the extent the speedy trial date is not tolled pursuant to 18 U.S.C. § 3161(h)(1)(A), the Court finds that, pursuant to 18 U.S.C. § 3161(h)(7)(A), after considering the factors set forth in 18 U.S.C. § 3161(h)(7)(B), the ends of justice are served by continuing proceedings in this case so that Defendant can be evaluated, and that such continuance outweighs the best interests of the public and Defendant in a speedy trial. Failure to continue proceedings in this case pending completion of Defendant's competency evaluation would result in a miscarriage of justice by requiring Defense counsel to

prepare a defense without Defendant's meaningful assistance and without assurance that Defendant is mentally competent.

Thus, the Court hereby **CONTINUES** the instant case and **VACATES** the November 4, 2024 trial date. The **Speedy Trial Act deadline** in the instant case is **TOLLED** from October 17, 2024 pending a final determination of Defendant's competency.

IT IS SO ORDERED.

October 21, 2024

s/Michael J. Newman
Hon. Michael J. Newman
United States District Judge